



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: June 17, 2015 **REPORT NO.** PC-15-074

ATTENTION: Planning Commission, Agenda of June 25, 2015

SUBJECT: APPEAL OF THE HEARING OFFICER'S DECISION TO APPROVE A CONDITIONAL USE PERMIT FOR 8863 BALBOA STE E MMCC - PROJECT NO. 368347 (PROCESS 3).

REFERENCE: Report to the Hearing Officer; Report No. HO-15-050 (Attachment 1-10).

**OWNER/
APPLICANT:** MARIA TORRES SANDOVAL /
United Patients Consumer Cooperative, Michael D. Sherlock

SUMMARY

Issue: Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a Conditional Use Permit (CUP) to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 999 square-foot tenant space within an existing 4,995 square-foot building on a 2.51-acre site within the Kearny Mesa Community Plan area?

Staff Recommendation: Deny the appeal and Uphold the Hearing Officer's decision to Approve Conditional Use Permit No. 1296130.

Community Planning Group Recommendation: The Kearny Mesa Planning Group (KMPG) prefers not to place project applications on their agenda until all City staff review issues have been cleared. The applicant elected not to be placed on the KMPG agenda after all issues were cleared.

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures on November 20, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on March 3, 2015.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.

BACKGROUND

In 1996 the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. In 2008 the California Attorney General established guidelines for Medical Marijuana Collective Operations and allowed cities to adopt and enforce laws consistent with the MMP.

On March 25, 2014 the City of San Diego adopted Ordinance No. O-20356, to implement zoning regulations for Medical Marijuana Consumer Cooperatives (MMCC). MMCCs are allowed with a Conditional Use Permit, Process 3, Hearing Officer Decision. A limit of four MMCCs per Council District (36 city-wide) was adopted in order to minimize the impact on the City and residential neighborhoods.

The proposed project is a request for a Conditional Use Permit (CUP) to operate in a 999 square-foot tenant space within an existing 4,995 square-foot one-story building on a 2.51-acre site. The site is located at 8863 Balboa Avenue in the IL-3-1 Zone, the Airport Influence Area (Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan area.

The site contains eight detached buildings constructed in 1969. The proposed 999 square-foot MMCC tenant space is located on the far southwest side of the lot, adjacent to Montgomery Field Airport. The tenant space is currently vacant. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan.

The proposed MMCC meets all applicable development regulations, including the minimum distance requirements. On April 22, 2015, the Hearing Officer approved the project.

DISCUSSION

Appeal: Two appeals of the Hearing Officer's decision were filed on May 5, 2015. An appeal was filed by Stephen G. Cline on the grounds of Findings not supported and New Information (Attachment 11). The other appeal was filed by Daniel Burakowki on Factual Error and New Information (Attachment 12).

The appellant's summarized grounds for appeal issues and staff responses are as follows:

Appeal Issues:

1. *The CUP should not be approved when they have no chance of approval at the building permit phase since the Business Owner's Association will not allow the use.*

Staff Response: The proposed MMCC meets all applicable development regulations, including the minimum distance requirements. On April 22, 2015, the Hearing Officer approved the project. The Business Owner's Associations is a civil matter not within the purview of Development Services Department.

2. *The statements of evidence relied upon by the decision maker when approving the CUP was inaccurate.*

Staff Response: Development Services staff reviewed the MMCC application and determined that the proposed MMCC meets all applicable development regulations. A report was prepared and presented to the Hearing Officer on April 22, 2015. The Hearing Officer reviewed the report, conducted a site inspection, listened to speakers in favor and opposition to the project and determined that the findings could be made and approved the project.

The appeal application did not specify what the inaccurate information the Hearing Officer relied on is.

3. *New information is available now that was not previously available.*

Staff Response: The appeal application did not provide new information.


Conclusion:

Staff is recommending denial of the appeal and approval of the project as it meets all applicable development regulations, including the minimum distance requirements.

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department



Edith Gutierrez
Development Project Manager
Development Services Department

Attachments:

- 1-10 Report to the Hearing Officer – Report HO-15-048
11. Erratum Memorandum dated April 21, 2015 and attachments
12. Appeal Application, Stephen Cline
13. Appeal Application, Daniel Burakowski
14. Draft Permit Resolution with Findings



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: April 22, 2015 REPORT NO. HO-15-048
ATTENTION: Hearing Officer
SUBJECT: 8863 BALBOA STE E MMCC
PROJECT NUMBER: 368347
LOCATION: 8863 Balboa Avenue
APPLICANT: Michael D. Sherlock, United Patients Consumer Cooperative

SUMMARY

Issue: Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 999 square-foot tenant space within an existing, 4,995 square-foot building on a 2.51-acre site within the Kearny Mesa Community Plan area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1296130.

Community Planning Group Recommendation: The Kearny Mesa Planning Group did not place this project on their agenda therefore a vote was not taken (further discussion on page 3).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures on November 20, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on March 3, 2015. The scope of the Hearing Officer's decision only includes the project, and not the environmental determination.

BACKGROUND

In 1996, the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the

California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. In 2008, the California Attorney General established guidelines for Medical Marijuana Collective Operations and allowed cities to adopt and enforce laws consistent with the MMP.

On March 25, 2014, the City of San Diego adopted Ordinance No. O-20356, to implement zoning regulations for Medical Marijuana Consumer Cooperatives (MMCC). MMCCs are allowed with a Conditional Use Permit, Process 3, Hearing Officer Decision. A limit of four MMCCs per Council District (36 city-wide) was adopted in order to minimize the impact on the City and residential neighborhoods.

This proposed project is a request for a Conditional Use Permit (CUP) to operate in a 999 square-foot tenant space within an existing 4,995 square-foot one-story building on a 2.51-acre site. The site is located at 8863 Balboa Avenue (Attachment 2) in the IL-3-1 Zone, the Airport Influence Area (Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan area (Attachment 3).

The site contains eight detached buildings constructed in 1969. The surrounding parcels are within the IL-2-1 Zone except for the southern most parcel, which is Montgomery Field Airport and is unzoned. The site is designated Industrial in the Kearny Mesa Community Plan which is intended for manufacturing, assembling, processing, warehousing or transporting goods or products. The Kearny Mesa Community Plan encourages continued development of Kearny Mesa as a regional employment center, containing a mix of industrial, office, retail and compatible housing land uses. The proposed 999 square-foot MMCC located on the far southwest side of the lot is currently being used for vehicle sales and services. The existing uses on the 2.51-acre site consist of vehicle sales and services, retail and commercial services (business services-offices). The existing uses are consistent with the Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan.

DISCUSSION

The proposed 999 square-foot tenant space, within an existing 4,955 square-foot one-story building, is currently being used for vehicle sales and services. The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs must comply with San Diego Municipal Code (SDMC) Section 141.0614 which requires a 1,000-foot separation, measured between property lines, from: public parks, churches,

child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCC Conditional Use Permits expire five years from date of issuance. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The City of San Diego Development Services staff has reviewed the 1,000-foot radius map (Attachment 6) and 1,000-foot spreadsheet exhibit (Attachment 7) provided by the applicant identifying all existing uses. Staff has determined that the proposed MMCC meets all applicable development regulations, including the minimum distance requirements. The permit has been conditioned to include all development restrictions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

KEARNY MESA PLANNING GROUP

The Kearny Mesa Planning Group prefers not to place project applications on their agenda until all City staff review issues been cleared. This applicant elected not to be placed on the Kearny Mesa Planning Group agenda when City staff cleared all issues.

CONCLUSION

The Conditional Use Permit for the proposed MMCC may be approved if the Hearing Officer determines that the findings can be made. Staff has reviewed the proposed MMCC and has determined that it meets all applicable sections of the San Diego Municipal Code, Kearny Mesa Community Plan and the General Plan. Staff is recommending that the Hearing Officer approve the project as proposed.

ALTERNATIVE

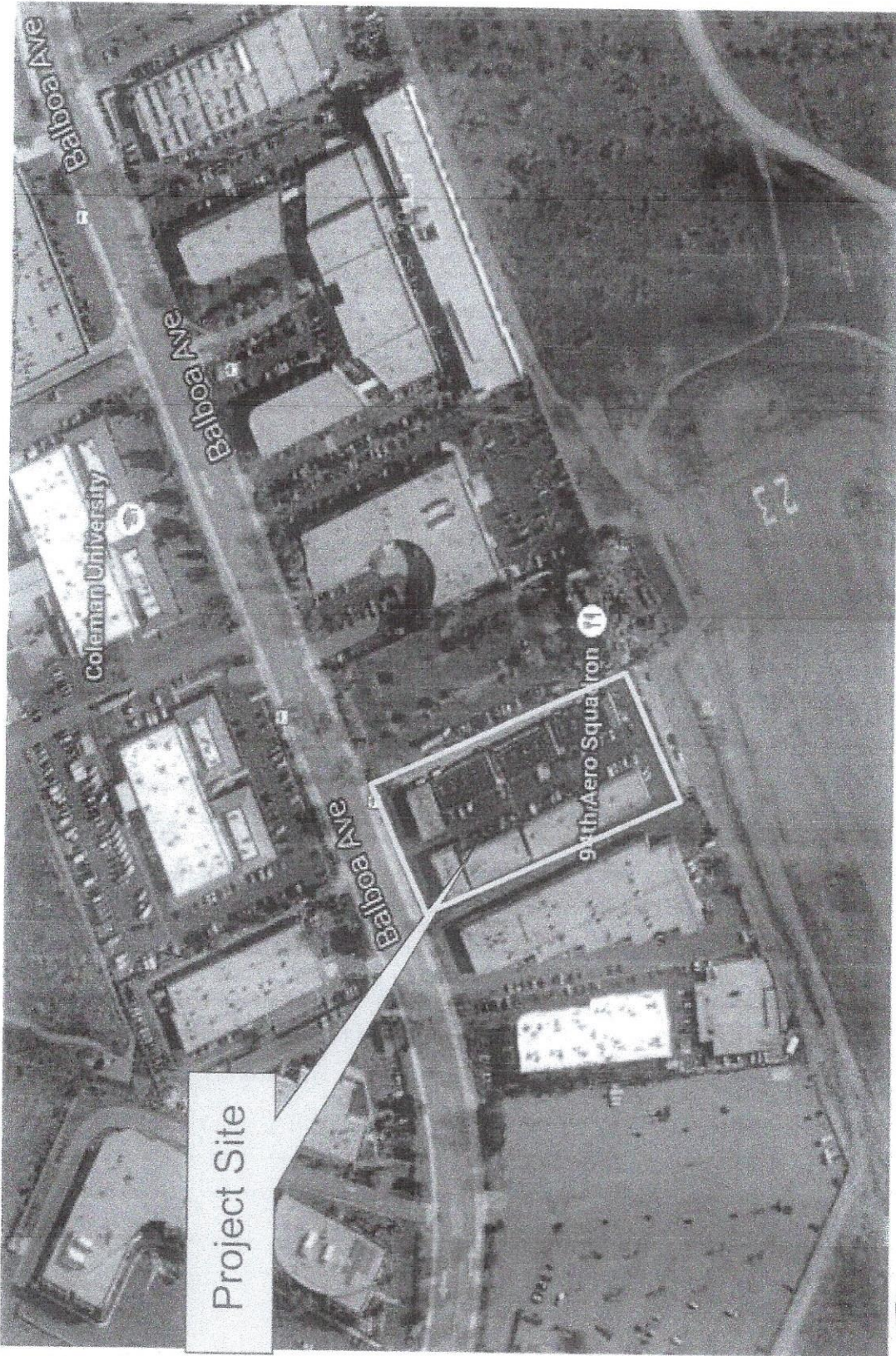
1. Approve Conditional Use Permit No. 1296130, with modifications.
2. Deny Conditional Use Permit No. 1296130, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

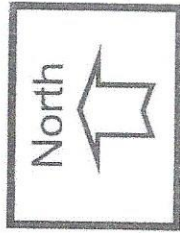
Edith Gutierrez, Development Project Manager

Attachments:

1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. 1000-Foot Radius Map
7. 1000 -Foot Radius Map Spreadsheet
8. Notice of Right to Appeal Environmental Determination
9. Project Site Plan(s)
10. Ownership Disclosure Statement



Project Site

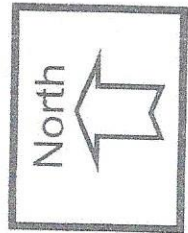


Location Aerial Photo

8863 BALBOA STE. E MMCC - 8863 BALBOA AVENUE

PROJECT NO. 368347

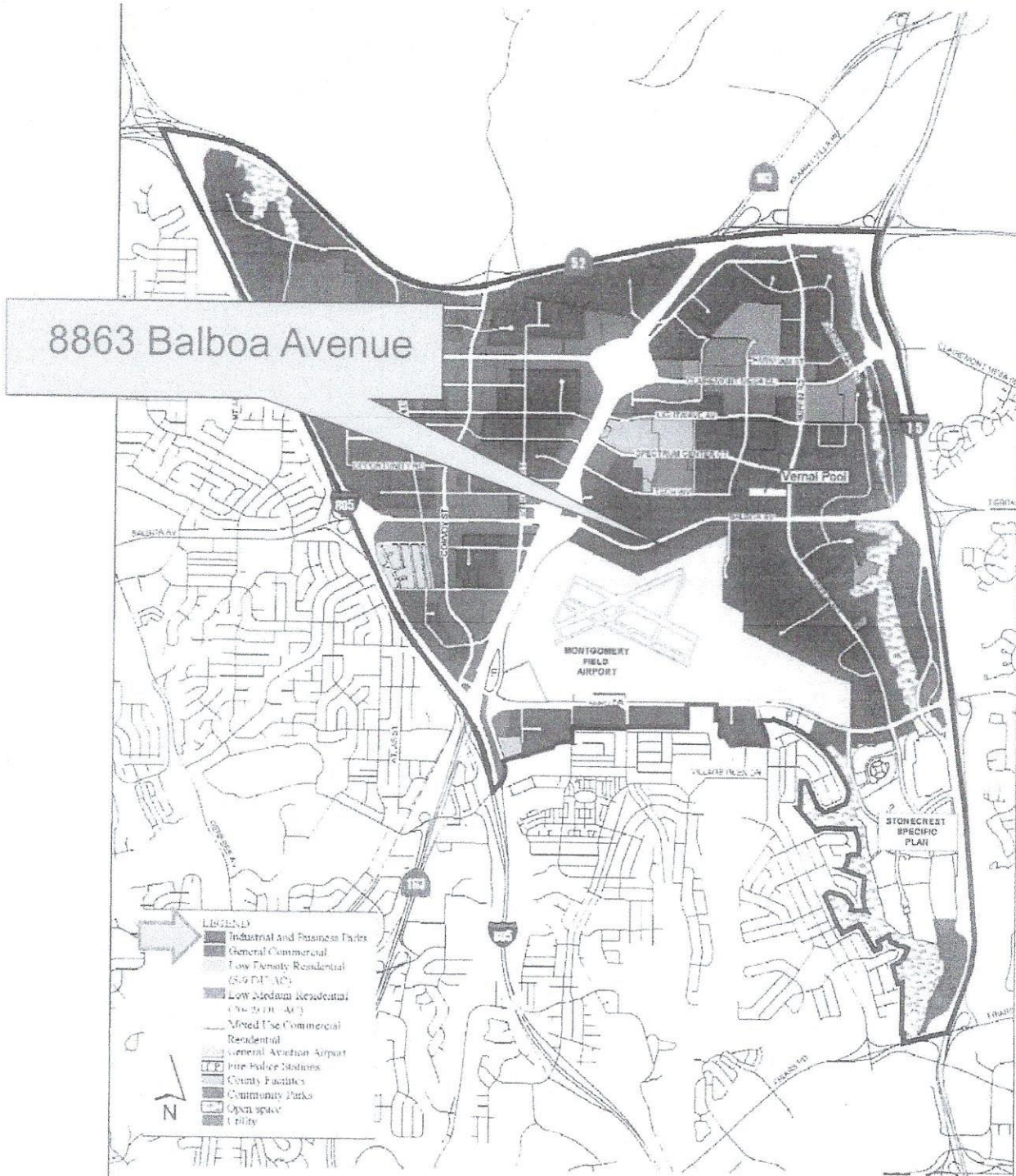




Project Location Map

8863 BALBOA STE. E MMCC - 8863 BALBOA AVENUE
PROJECT NO. 368347



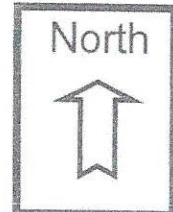


Kearny Mesa Community Plan

Land Use Map



8863 BALBOA STE. E MMCC – 8863 BALBOA AVENUE
PROJECT NO. 368347



RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004643

CONDITONAL USE PERMIT NO. 1296130
8863 BALBOA STE E MMCC - PROJECT NO. 368347
HEARING OFFICER

This Conditional Use Permit No. 1296130 is granted by the Hearing Officer of the City of San Diego to MARIA TORRES SANDOVAL, Owner and UNITED PATIENTS CONSUMER COOPERATIVE, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 2.51-acre site located at 8863 Balboa Avenue is in the IL-3-1 Zone, the Airport Influence Area (Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan Area. The project site is legally described as: Lot 9, Industrial Park No. 2, Map No. 4113, March 12, 1959.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 22, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 999 square-foot tenant space within an existing, 4,995 square-foot, one-story building on a 2.51-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in

accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by April 7, 2018
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on April 7, 2020.
3. In addition to the provisions of the law, the MMCC must comply with; Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.
4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department.
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A MMCC Permit issued by the Development Services Department is approved for all responsible persons in accordance with SDMC, Section 42.1504.
5. While this Permit is in effect, the MMCC shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the MMCC and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies

including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

PLANNING/DESIGN REQUIREMENTS:

13. The use within the 999 square-foot tenant space shall be limited to the MMCC and any use permitted in the IL-3-1 zone.
14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis.
17. The Owner/Permittee shall install bullet resistant glass, plastic, or laminate shield at the reception area to protect employees.
18. The Owner/Permittee shall install bullet resistant armor panels in walls around the safe room and adjoining walls with other tenants.
19. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
20. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
21. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
22. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 48 hours.
23. Medical marijuana shall not be consumed anywhere within the 2.51-acre site.
24. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
25. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and

typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.

26. Interior spaces exposed to exterior aircraft noise sources shall be attenuated to achieve an indoor noise level of 50 dB CNEL.

ENGINEERING REQUIREMENTS:

27. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the two easterly driveways with City standard driveways on Balboa Avenue per Standard Drawings SDG-159, satisfactory to the City Engineer.

TRANSPORTATION REQUIREMENTS:

28. No fewer than 5 parking spaces (including 1 van accessible space) for the proposed 999 square-foot MMCC, and 102 parking spaces (including 4 accessible spaces) for the entire 2.5-acre site (with 102 parking spaces including 4 accessible spaces provided), shall be maintained on the property at all times in the approximate locations shown on Exhibit "A." All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

29. Prior to any building permit/tenant improvement for 8861 Balboa Avenue Suite #B, the applicant shall demonstrate that the converted portion of the warehouse space to 2-car parking garage at 8861 Balboa Suite #B is to be accessed accessible for minimum turning path for passenger car design vehicle to accommodate ingress/egress of two (2) side-by-side dimensionally acceptable interior garage parking spaces, one of which is to be assigned to this CUP for 8863 Balboa Avenue Suite #E as employee parking while the other to be assigned to 8861 Balboa Avenue Suite #B, which may in turn require its own building permit to convert a portion of Suite #B into a parking garage satisfactory to BDR - Structural Review staff. Improvements to the existing garage space that may be required include, but are not limited to, a wider garage door and improvements required for separation of the parking and warehouse uses in 8863 Balboa Avenue Suite #E, satisfactory to BDR - Structural Review staff.

POLICE DEPARTMENT RECOMMENDATION:

30. The San Diego Police Department recommends that a Crime Prevention Through Environmental Design (CPTED) review be requested by their department and implemented for the MMCC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed

on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on April 22, 2015 and Resolution No. HO-XXX.

Conditional Use Permit No.1296130/PTS No. 368347
Date of Approval: April 22, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Edith Gutierrez
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

MARIA TORRES SANDOVAL
Owner

By _____
Maria T. Sandoval
Owner

UNITED PATIENTS CONSUMER
COOPERATIVE
Permittee

By _____
Michael D. Sherlock
Permittee

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

The site is designated Industrial in the Kearny Mesa Community Plan. The Industrial designation is intended for manufacturing, assembling, processing, warehousing or transporting goods or products. The Kearny Mesa Community Plan encourages continued development of Kearny Mesa as a regional employment center, containing a mix of industrial, office, retail and compatible housing land uses. The proposed MMCC was reviewed by MCAS Miramar and determined to be consistent with the Air Installation Compatible Use Zone (AICUZ) noise and safety compatibility guidelines.

The 2.51-acre site is zoned IL-3-1 and has eight detached buildings constructed in 1969. The proposed MMCC is located on the far southwest side of the lot. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The existing uses are consistent with the Industrial designation of the community plan. The surrounding parcels are within the IL-2-1 Zone except from the south parcel which is Montgomery Field Airport and is unzoned. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The proposed 999 square-foot MMCC site located at 8863 Balboa Avenue is within an existing 4,995 square-foot building on a 2.51-acre site. The existing tenant space is currently being used for vehicle sales and services. The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. MMCCs require compliance with San Diego Municipal Code (SDMC) section 141.0614 which require a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1296130. The Conditional Use Permit is valid for five years, however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area and therefore, the proposed MMCC will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The proposed 999 square-foot MMCC located at 8863 Balboa Avenue is within an existing 4,995 square-foot building. The 2.51-acre site is zoned IL-3-1 and has eight detached buildings totaling 39,674 square-feet constructed in 1969. The proposed MMCC is located on the far southwest side of the lot. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs are allowed in the IL-3-1 zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC section 141.0614 which requires a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is consistent with the land use designation of Industrial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The proposed 999 square-foot MMCC located at 8863 Balboa Avenue is within an existing 4,995 square-foot building.

MMCCs, classified as commercial services, are allowed in the IL-3-1 zone with a Conditional Use Permit (CUP) and are consistent with the land use designation of Industrial use in the Kearny Mesa Community Plan. The CUP requires MMCCs to comply with SDMC section 141.0614 which requires a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. The proposed MMCC is located on the far southwest side of a 2.51-acre site that is zoned IL-3-1 and has eight detached buildings. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The proposed MMCC is a compatible use for this location with a Conditional Use Permit, is consistent with the community plan and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code, therefore the use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1296130 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1296130, a copy of which is attached hereto and made a part hereof.

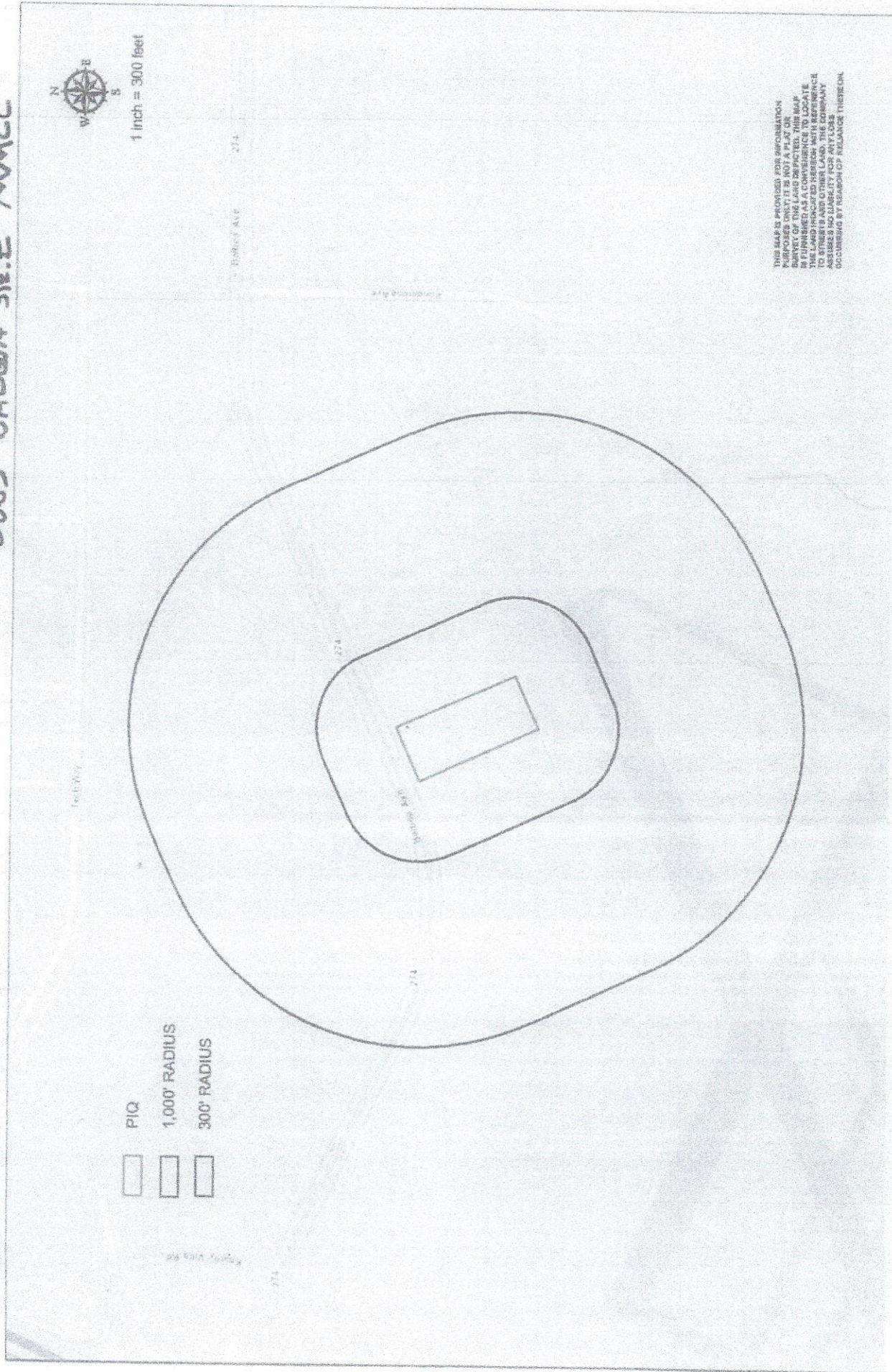
Edith Gutierrez
Development Project Manager
Development Services

Adopted on: April 22, 2015

Job Order No. 24004643

PROJECT NO. 368347

0863 GALLOA S.W.E. MMCC



NOTE: THERE ARE NO RESIDENTIAL ZONES WITHIN 100' OF THE SITE.

8863 Balboa Ave., Ste. E - 1,000' Radius Table

Project Name: 8863 Balboa Ste. E MMCC

Address: 8863 Balboa Ave., Ste. E, San Diego, CA 92123

Date: 4/23/14

Use	Address	Assessor Parcel No.	Business Name
Heavy Industrial - Unverifiable	8650 Balboa Ave 8690	369-140-22-00	Raytheon
Parking Lot	8775 Balboa Ave	369-140-26-00	N/A
Technology	8611 Balboa Ave	369-140-27-00	Kyocera
Miter	8911 Balboa Ave	369-150-06-00	Lytx
Restaurant	8885 Balboa Ave	369-150-07-00	94th Aero Squadron
Engineering Firm	8799 Balboa Ave 270	369-150-10-00	SCS Engineering
Offices		#100	"
Offices		#105	"
Offices		#110	"
Offices		#120	"
Offices		#125	"
Offices		#140	"
Offices		#155	"
Offices		#235	"
Vacant		#240	"
Vacant		#250	"
Real Estate Office		#260	"
Real Estate Office		#270	"
Engineering Office		#290	"
Power Company	8835 Balboa Ave	369-150-12-00	Atlantic Power Corporation
Vacant	8855 Balboa Ave A	369-150-13-01	N/A
Vacant	8855 Balboa Ave B	369-150-13-02	N/A
Vacant	8855 Balboa Ave C	369-150-13-03	N/A
Windows and Doors	8855 Balboa Ave D	369-150-13-04	Vinyl View Company, Inc.
Store/Office - Unverifiable	8855 Balboa Ave E	369-150-13-05	
Tai Chi	8855 Balboa Ave F	369-150-13-06	Hansdragon
Tai Chi	8855 Balboa Ave G	369-150-13-07	Hansdragon
Tai Chi	8855 Balboa Ave H	369-150-13-08	Hansdragon
Industrial - Unverifiable	8859 Balboa Ave A	369-150-13-09	SDRL
Honda, Acura Specialist	8859 Balboa Ave B	369-150-13-10	Green Light
Honda, Acura Specialist	8859 Balboa Ave C	369-150-13-11	Green Light
Industrial - Unverifiable	8859 Balboa Ave D	369-150-13-12	
Recording Products	8859 Balboa Ave E	369-150-13-13	Advance
Industrial - Unverifiable	8861 Balboa Ave A	369-150-13-14	
BMW Service	8861 Balboa Ave Ste B	369-150-13-15	Bimmer Speed
Industrial - Unverifiable	8861 Balboa Ave C	369-150-13-16	
Metalwork	8861 Balboa Ave D	369-150-13-17	Daniel Burakowski
Industrial - Unverifiable	8861 Balboa Ave E	369-150-13-18	
Industrial - Unverifiable	8863 Balboa Ave A	369-150-13-19	
Auto Repair	8863 Balboa Ave B	369-150-13-20	Zephyr Motorsports
Industrial - Unverifiable	8863 Balboa Ave C	369-150-13-21	
Auto Repair	8863 Balboa Ave D	369-150-13-22	Danny's Garage
Industrial - Unverifiable	8863 Balboa Ave E	369-150-13-23	
Contractor	8865 Balboa Ave A	369-150-13-24	Rose Construction
Business Machine Repair	8865 Balboa Ave B	369-150-13-25	ACC
Deli	8865 Balboa Ave C	369-150-13-26	Unique Deli
Deli	8865 Balboa Ave D	369-150-13-27	Unique Deli
Power Management	8865 Balboa Ave E	369-150-13-28	More Power Management

Financial Advisor	8865 Balboa Ave F	369-150-13-29	W. Spencer Harris, CPA
Vacant	8865 Balboa Ave G	369-150-13-30	N/A
Project Manager and Consulting	8865 Balboa Ave H	369-150-13-31	SoCal Sales, or office of
Industrial - Unverifiable	8869 Balboa Ave A	369-150-13-32	
Boat Repair	8869 Balboa Ave B	369-150-13-33	Outboard Services
Industrial - Unverifiable	8869 Balboa Ave C	369-150-13-34	
Industrial - Unverifiable	8869 Balboa Ave D	369-150-13-35	
Van Rental	8869 Balboa Ave E	369-150-13-36	ASAP
Window Coverings	8871 Balboa Ave A	369-150-13-37	RC and Blind Draperies
Art Studio	8871 Balboa Ave B	369-150-13-38	Wonka Gallery
Vacant	8871 Balboa Ave C	369-150-13-39	N/A
Industrial - Unverifiable	8871 Balboa Ave D	369-150-13-40	
Vacant	8871 Balboa Ave E	369-150-13-41	N/A
Industrial - Unverifiable	8873 Balboa Ave A	369-150-13-42	
Auto Repair	8873 Balboa Ave B	369-150-13-43	Hi Tech
Auto Repair	8873 Balboa Ave C	369-150-13-44	Hi Tech
Auto Repair	8873 Balboa Ave D	369-150-13-45	Hi Tech
Auto Repair	8873 Balboa Ave E	369-150-13-46	Hi Tech
Family Service Center	8788 Balboa Ave	369-150-16-00	Jewish Family Services
Family Service Center	8804 Balboa Ave	369-150-17-00	Jewish Family Services
Health Care / Naval Branch	8808 Balboa Ave	369-150-18-00	American Medical Response
College	8888 Balboa Ave 8992	369-150-19-00	Coleman College
Light Industrial, Offices	9020 Balboa Ave 9030	369-150-21-00	Telemetry West
Offices	8965 Balboa Ave	369-163-09-01	Children's Welfare Services
Light Industrial, Offices	8975 Balboa Ave	369-163-09-02	Symitar
Light Industrial, Offices	8985 Balboa Ave	369-163-09-03	Symitar
College	4141 Kearny Villa Rd	760-222-01-00	Media Design College
Parking	119 Montgomery Fld	760-222-05-00	
Hotel	8110 Aero Dr	760-222-06-00	Four Points by Sheraton
Offices, College	3760 Glenn Curtiss Rd	760-222-07-00	National Air College Inc.
Industrial	8620 Gibbs Dr	760-222-08-00	Cessna
(Uses for each unit below)	8525 Gibbs Dr 8575	760-222-09-00	(Businesses for each unit below)
Pilot Supplies		#102	"
Liquor Store		#130	"
Post Office		#115	"
Flight School		#116	"
Insurance		#117	"
Donut Shop		#118	"
Dry Cleaner		#119	"
Mexican Restaurant		#120	"
Vacant		#101	"
Vacant		#112	"
Cremation Services		#107	"
Barber Shop		#106	"
Restaurant		#105	"
Salon		#104	"
Employment Services		#103	"
Thai Restaurant		#114	"
	8575 Gibbs Dr.		?
Call center, offices		#101	Scheduling Services, Call Center
Call center, offices		#102	"
Offices		#103	Department of Finance
Medical office		#120	Managed Care
Offices		#130	Data Systems Administration

Offices		#203	Information Technology
Offices		#206	A/R Posting & Statistical Reporting
Offices		#208	Customer Relation
Offices		#209, 210	Government Billing & Follow Up
Offices		#211	Data Entry
Flight School	8865 Gibbs Dr.	?	Scandinavian Flight Academy
Offices		#100	Debt Wave Credit Counseling
Offices		#110	Radelow Gittins Real Property
Vacant		#120	
Medical office		#140	Okazaki Chiropractic
Law Office		#150	CIR Law Offices
Medical office		#200	UCSD Moores Cancer Center
Offices		#204	ETIC Engineering
Offices		#206	Primerica Financial Services
Vacant		#208	
Vacant		#210	
Retail - Unverifiable	8690 Aero Dr	760-222-10-00	
Flight Services	8906 Aero Dr	760-222-14-00	Gibbs Flying Service
Flight Services	8906 Aero Dr	760-222-15-00	Gibbs Flying Service
<i>These are addresses identified within the Montgomery Field parcel, not all of which could be visually inspected:</i>			
Industrial - Unverifiable	3750 John J Montgomery Dr	760-222-17-00	
Administration	4302 Ponderosa Ave	760-222-28-00	Afsfo Navy Company S.D.
Airport Terminal, Restaurant	3750 John J Montgomery Dr	760-222-31-00	CASA Machado Restaurant
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-01	Coast Flight Training
Parking Lot, Parking Structure	3748 John J Montgomery Dr	760-222-32-02	
Industrial - Unverifiable	3748 John J Montgomery Dr	760-222-32-03	
Parking Lot, Parking Structure	3748 John J Montgomery Dr C	760-222-32-04	
Industrial - Unverifiable	3753 John J Montgomery Dr 4	760-222-32-08	Crown Air Aviation
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-09	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 9	760-222-32-13	
Industrial - Unverifiable	3748 John J Montgomery Dr 15	760-222-32-17	
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-18	
Industrial - Unverifiable	3753 John J Montgomery Dr	760-222-32-19	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 19	760-222-32-20	
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-21	
Industrial - Unverifiable	3753 John J Montgomery Dr 10A	760-222-32-24	
Parking Lot, Parking Structure	3748 John J Montgomery Dr 13	760-222-32-25	
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-26	
Industrial - Unverifiable	3748 John J Montgomery Dr 23	760-222-32-27	
Parking Lot, Parking Structure	3748 John J Montgomery Dr	760-222-32-32	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 30	760-222-32-35	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 32	760-222-32-36	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 33	760-222-32-37	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 35	760-222-32-38	
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-39	
Parking Lot, Parking Structure	3753 John J Montgomery Dr	760-222-32-40	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 34	760-222-32-41	
Parking Lot, Parking Structure	3753 John J Montgomery Dr 31	760-222-32-42	
Parking Lot, Parking Structure	3748 John J Montgomery Dr	760-222-32-43	
Retail - Unverifiable	3750 John J Montgomery Dr B	760-222-35-00	
Industrial - Unverifiable	4025 Kearny Villa Rd	760-222-41-00	
Retail - Unverifiable	3750 John J Montgomery Dr A	760-222-44-00	
Vacant	8885 Balboa Ave	760-222-46-00	

	3750 John J Montgomery Dr D	760-222-50-00	
Offices, Light Industrial	8680 Balboa		Raytheon
	9025 Balboa	369-163-10-00	
Electrical advertising, signs	"	"	Ultra Signs
Massage institute	"	"	International Professional School of Bodywork
Research	"	"	Rapeutics Research



THE CITY OF SAN DIEGO

Date of Notice: November 20, 2014

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24004643

PROJECT NAME/NUMBER: 8863 Balboa # E CUP MMCC/368347

COMMUNITY PLAN AREA: Kearny Mesa Community Plan

COUNCIL DISTRICT: 6

LOCATION: The project is located at 8863 Balboa Avenue, San Diego, CA

PROJECT DESCRIPTION: The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC). The facility is proposing to operate in an existing 999 –square-foot tenant suite within an existing 39,674- square-foot, one-story building on a 2.5-acre site located at 8863 Balboa Avenue within the Kearny Mesa Community Plan Area; it is designated for Industrial and Business Park use. The project is zoned IL-3-1 and is subject to the Airport Influence Area for Miramar and Montgomery Field, the Part 77 Noticing Area, Montgomery Field Safety Zone 2, 5 & 6 the 65-70 dB CNEL for Montgomery Field, and the 100 Year Flood Plain Overlay Zone.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Designated Staff

ENVIRONMENTAL DETERMINATION: CEQA Exemption 15303 (New Construction or Conversion of Small Structures)

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15303 which allows for the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The exceptions listed in CEQA Section 15300.2 would not apply.

DEVELOPMENT PROJECT MANAGER:

Edith Gutierrez

MAILING ADDRESS:

1222 First Avenue, MS 501

San Diego, CA 92101

PHONE NUMBER:

(619) 446-5147

On November 20, 2014, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (December 8, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

POSTED IN THE OFFICE OF DSD	
Posted	<u>NOV 20 2014 <i>ml</i></u>
Removed	<u>DEC 09 2014</u>
Posted by	<u><i>ml</i></u>



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title

8863 Balboa Ste. E MMCC

Project No. For City Use Only

368347

Project Address:

8863 Balboa Ave., Ste. E, San Diego, CA 92123

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):

Maria T. Sandoval

Owner Tenant/Lessee Redevelopment Agency

Street Address:

7359 Hyatt St.

City/State/Zip:

San Diego, CA. 92111

Phone No:

619-906-9587

Fax No:

Date:
Apr 23, 2014

Signature:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Project Title: 8863 BALBOA STE E MMCC Project No. (For City Use Only)

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? CA Corporate Identification No. 8667892
 Partnership CALIFORNIA CONSUMER COOPERATIVE

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print): UNITED PATIENTS CONSUMER COOP.

Owner Tenant/Lessee

Street Address: 5666 LA JOLLA BLVD. # 15

City/State/Zip: SAN DIEGO, CA 92037

Phone No: (619) 851-5403 Fax No:

Name of Corporate Officer/Partner (type or print): MICHAEL D. SHERLOCK

Title (type or print): AUTHORIZED SIGNER/PRESIDENT

Signature: Michael D. Sherlock Date: 4/23/14

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 21, 2015

TO: Ken Teasley, Hearing Officer

FROM: Edith Gutierrez, Project Manager

SUBJECT: Erratum for 8863 Balboa Ste E MMCC, Project No. 368347, Hearing Officer Report No. HO-15-048

The site plan within the Hearing Officer Report (attachment 9) has been modified to accurately reflect the existing parking on site, which is 99 off-street parking spaces, not 100.

Condition No. 28 on the Draft Permit (attachment 4) has been modified to reflect the correct number of surface parking spaces.

Revised Condition Number 28: No fewer than 5 parking spaces (including 1 van accessible space) for the proposed 999 square-foot MMCC, and ~~102 parking spaces~~ (with 99 existing surface parking spaces -including 4 accessible spaces for on the entire 2.5 acre site) (~~with 102 parking spaces including 4 accessible spaces provided~~), shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

Attachment: Revised Site Plan 8863 Balboa Avenue revised 4/17/15 (attachment 9)
Revised Draft Conditional Use Permit, condition number 28 (attachment 4)

RECORDING REQUESTED BY
 CITY OF SAN DIEGO
 DEVELOPMENT SERVICES
 PERMIT INTAKE, MAIL STATION 501

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004643

CONDITONAL USE PERMIT NO. 1296130
8863 BALBOA STE E MMCC - PROJECT NO. 368347
HEARING OFFICER

This Conditional Use Permit No. 1296130 is granted by the Hearing Officer of the City of San Diego to MARIA TORRES SANDOVAL, Owner and UNITED PATIENTS CONSUMER COOPERATIVE, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 2.51-acre site located at 8863 Balboa Avenue is in the IL-3-1 Zone, the Airport Influence Area (Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan Area. The project site is legally described as: Lot 9, Industrial Park No. 2, Map No. 4113, March 12, 1959.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 22, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 999 square-foot tenant space within an existing, 4,995 square-foot, one-story building on a 2.51-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in

accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by April 7, 2018
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on April 7, 2020.
3. In addition to the provisions of the law, the MMCC must comply with; Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.
4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department.
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A MMCC Permit issued by the Development Services Department is approved for all responsible persons in accordance with SDMC, Section 42.1504.
5. While this Permit is in effect, the MMCC shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the MMCC and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies

including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

PLANNING/DESIGN REQUIREMENTS:

13. The use within the 999 square-foot tenant space shall be limited to the MMCC and any use permitted in the IL-3-1 zone.
14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis.
17. The Owner/Permittee shall install bullet resistant glass, plastic, or laminate shield at the reception area to protect employees.
18. The Owner/Permittee shall install bullet resistant armor panels in walls around the safe room and adjoining walls with other tenants.
19. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
20. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
21. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
22. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 48 hours.
23. Medical marijuana shall not be consumed anywhere within the 2.51-acre site.
24. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
25. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and

typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.

26. Interior spaces exposed to exterior aircraft noise sources shall be attenuated to achieve an indoor noise level of 50 dB CNEL.

ENGINEERING REQUIREMENTS:

27. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the two easterly driveways with City standard driveways on Balboa Avenue per Standard Drawings SDG-159, satisfactory to the City Engineer.

TRANSPORTATION REQUIREMENTS:

28. No fewer than 5 parking spaces (including 1 van accessible space) for the proposed 999 square-foot MMCC (with 99 existing surface parking spaces -including 4 accessible spaces on the entire 2.5 acre site) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

29. Prior to any building permit/tenant improvement for 8861 Balboa Avenue Suite #B, the applicant shall demonstrate that the converted portion of the warehouse space to 2-car parking garage at 8861 Balboa Suite #B is to be accessed accessible for minimum turning path for passenger car design vehicle to accommodate ingress/egress of two (2) side-by-side dimensionally acceptable interior garage parking spaces, one of which is to be assigned to this CUP for 8863 Balboa Avenue Suite #E as employee parking while the other to be assigned to 8861 Balboa Avenue Suite #B, which may in turn require its own building permit to convert a portion of Suite #B into a parking garage satisfactory to BDR - Structural Review staff. Improvements to the existing garage space that may be required include, but are not limited to, a wider garage door and improvements required for separation of the parking and warehouse uses in 8863 Balboa Avenue Suite #E, satisfactory to BDR - Structural Review staff.

POLICE DEPARTMENT RECOMMENDATION:

30. The San Diego Police Department recommends that a Crime Prevention Through Environmental Design (CPTED) review be requested by their department and implemented for the MMCC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed

on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on April 22, 2015 and Resolution No. HO-XXX.

Conditional Use Permit No.1296130/PTS No. 368347
Date of Approval: April 22, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Edith Gutierrez
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

MARIA TORRES SANDOVAL
Owner

By _____
Maria T. Sandoval
Owner

UNITED PATIENTS CONSUMER
COOPERATIVE
Permittee

By _____
Michael D. Sherlock
Permittee

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**



City of San Diego
 Development Services
 1222 First Ave. 3rd Floor
 San Diego, CA 92101

THE CITY OF SAN DIEGO

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
 OCTOBER 2012

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Four Decision - Appeal to City Council
- Environmental Determination - Appeal to City Council
- Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name: Stephen G. Cline, Esq. - Law Offices of Stephen G. Cline
 E-mail Address: steve@sandiegotrialattorney.com
 Address: 533 F Street, Suite 200
 City: San Diego State: CA Zip Code: 92101 Telephone: (619) 235-5638

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

8863 Balboa Suite E MMCC

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
368347	April 22, 2015	Edith Gutierrez

Decision (describe the permit/approval decision):
 Approval of conditional use permit to operate an MMCC at 8863 Balboa Suite E in Kearny Mesa Community Plan Area.

5. Grounds for Appeal (Please check all that apply)

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

There is new information related to applicant that renders it unable to obtain necessary approval for MMCC operation.
 As there is a four permit limit per district under the applicable ordinance, this applicant permit application should not be approved when they have no chance of approval at the building permit phase due to HOA bar to this type of business operation at that address.

RECEIVED

MAY 05 2015

DEVELOPMENT SERVICES

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: 5/2/15

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101

**Development Permit/
Environmental Determination
Appeal Application** **FORM DS-3031**
OCTOBER 2012

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Four Decision - Appeal to City Council
- Environmental Determination - Appeal to City Council
- Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103) *PRESIDENT OF OWNER'S ASSOCIATION MONTGOMERY FIELD BUSINESS CONDOS*

Name: *DANIEL BURAKOWSKI* E-mail Address: *DANBURAKOWSKI@GMAIL.COM*

Address: *3361 BALBOA AVE. UNIT D* City: *SAN DIEGO* State: *CA* Zip Code: *92127* Telephone: *(619) 507 8997*

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

MICHAEL SHERLOCK

4. Project Information

Permit/Environmental Determination & Permit/Document No.: <i>PROJECT # 368347 PERMIT 1296130</i>	Date of Decision/Determination: <i>APRIL 22, 2015</i>	City Project Manager: <i>EDITH GUTIERREZ</i>
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Decision (describe the permit/approval decision):
THE HEARING OFFICER APPROVED CUP NO. 1296130 WITH ^{DEF} ~~PRO~~ CONDITIONS.

5. Grounds for Appeal (Please check all that apply)

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

1) FACTUAL ERROR. THE STATEMENTS OR EVIDENCE RELIED UPON BY THE DECISION MAKER WHEN APPROVING THE CUP WERE INACCURATE.

2) NEW INFORMATION. NEW INFORMATION IS AVAILABLE NOW THAT WAS NOT PREVIOUSLY AVAILABLE

RECEIVED

MAY 05 2015

DEVELOPMENT SERVICES

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: *Daniel Burakowski* Date: *5/5/2015*

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

PLANNING COMMISSION
RESOLUTION NO. PC-XXXX
CONDITONAL USE PERMIT NO. 1296130
8863 BALBOA STE E MMCC PROJECT NO. 368347

WHEREAS, MARIA TORRES SANDOVAL, Owner and UNITED PATIENTS CONSUMER COOPERATIVE, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 999 square-foot tenant space within an existing, 4,995 square-foot building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1296130), on portions of a 2.51-acre site;

WHEREAS, the project site is located at 8863 Balboa Avenue is in the IL-3-1 Zone, the Airport Influence Area (Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan Area;

WHEREAS, the project site is legally described as Lot 9, Industrial Park No. 2, Map No. 4113, March 12, 1959;

WHEREAS, on April 22, 2015, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 1296130 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on March 25, 2015, Stephen Cline and Daniel Burakowski filed appeals of the Hearing Officer's decision;

WHEREAS, on June 25, 2015, the Planning Commission of the City of San Diego considered the appeal of Conditional Use Permit No. 1296130 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on November 20, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures); and the Environmental Determination was appealed to City Council, which heard and denied the appeal on March 3, 2015 pursuant to Resolution No. 309534;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 25, 2015.

FINDINGS:

Conditional Use Permit Approval – Section §126.0305

1. **The proposed development will not adversely affect the applicable land use**

Plan.

The proposed project is a request for a Conditional Use Permit to operate in a 999 square-foot tenant space within an existing, 4,995 square-foot one-story building. The 2.51-acre site is located at 8863 Balboa Avenue in the IL-3-1 Zone, the Airport Influence Area (Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan area.

The site is designated Industrial in the Kearny Mesa Community Plan. The Industrial designation is intended for manufacturing, assembling, processing, warehousing or transporting goods or products. The Kearny Mesa Community Plan encourages continued development of Kearny Mesa as a regional employment center, containing a mix of industrial, office, retail and compatible housing land uses. The proposed MMCC was reviewed by MCAS Miramar and determined to be consistent with the Air Installation Compatible Use Zone (AICUZ) noise and safety compatibility guidelines.

The 2.51-acre site is zoned IL-3-1 and has eight detached buildings constructed in 1969. The proposed MMCC is located on the far southwest side of the lot. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The existing uses are consistent with the Industrial designation of the community plan. The surrounding parcels are within the IL-2-1 Zone except from the south parcel which is Montgomery Field Airport and is unzoned. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The proposed 999 square-foot MMCC site located at 8863 Balboa Avenue is within an existing 4,995 square-foot building on a 2.51-acre site. The existing tenant space is currently being used for vehicle sales and services. The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. MMCCs require compliance with San Diego Municipal Code (SDMC) section 141.0614 which require a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1296130. The Conditional Use Permit is valid for five years, however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area and therefore, the proposed MMCC will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The proposed 999 square-foot MMCC located at 8863 Balboa Avenue is within an existing 4,995 square-foot building. The 2.51-acre site is zoned IL-3-1 and has eight detached buildings totaling 39,674 square-feet constructed in 1969. The proposed MMCC is located on the far southwest side of the lot. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs are allowed in the IL-3-1 zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC section 141.0614 which requires a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is consistent with the land use designation of Industrial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The proposed 999 square-foot MMCC located at 8863 Balboa Avenue is within an existing 4,995 square-foot building.

MMCCs, classified as commercial services, are allowed in the IL-3-1 zone with a Conditional Use Permit (CUP) and are consistent with the land use designation of Industrial use in the Kearny Mesa Community Plan. The CUP requires MMCCs to comply with SDMC section 141.0614 which requires a

1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. The proposed MMCC is located on the far southwest side of a 2.51-acre site that is zoned IL-3-1 and has eight detached buildings. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The proposed MMCC is a compatible use for this location with a Conditional Use Permit, is consistent with the community plan and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code, therefore the use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1296130 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1296130, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services

Adopted on: June 25, 2015

Job Order No. 24004643